IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO. 157 OF 2005

SHREE SAUNSTHAN SHRI DEVKIKRISHNA RAVALNATH PANDA- ....Appellant

Versus

SHRI SHANTADURGA KUMBHARJUVEKARIN,MARCEL ....Respondent

Shri R.G. Ramani, Advocate for the Appellant.
Shri S.D. Lotlikar, Sr. Advocate with Ms. K. Sambari, Advocate for the Respondent.

Coram:- D. D. SINHA, J.

Date:- 16th December, 2005

P.C.:

Heard Shri R.G. Ramani, learned counsel for the appellant and Shri S.D. Lotlikar, learned senior counsel for the respondent.

2. The counsel for the appellant states that so far as the present Second Appeal is concerned, the substantial question of law which falls for the consideration of this Court is mentioned in para 10(i) of the memo of Second Appeal.

3. I have considered the contentions canvassed by the learned counsel for the appellant as well as of Shri Lotlikar, learned senior counsel for the respondent. The appellant is the original plaintiff and the suit was for permanent injunction. The first issue which was framed by the trial Court reads thus :-

" Does the plaintiff proves that plaintiff is in possession of suit property to the extent of the suit house ? "

This issue was answered in the negative in view of the nature of evidence adduced by the plaintiff and therefore dismissed the suit on this count as well as denied the other prayers made in the plaint. Similarly the lower appellate court also confirmed the finding of the trial Court and hence the Second Appeal.

4. Looking to the nature of the issue, the finding recorded is a finding of facts and therefore in my opinion no substantial question of law is involved in the present Second Appeal, much less a question of law as described in para 10(i) of the memo of Second Appeal.

Hence Second Appeal dismissed.

D. D. SINHA, J.

sl.